Draft of 1999 September 7

Honorable Carol S. Browner
Administrator
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington D.C. 20460

Subject: Commentary on the role of science in new approaches to environmental decision making that focus on stockholder involvement.

Dear Ms. Browner:

In recent years the Agency has devoted considerable attention to developing and promoting new more flexible and adaptive approaches to environmental regulation. Many of these address the problems of specific places, specific economic sectors, or especially vulnerable populations such as children or the disadvantaged. In all of these efforts, the Agency has worked hard to develop and use new strategies for enlisting the active advice and participation of relevant stakeholders. Of course, EPA has always sought and encouraged public input, but this new focus on stakeholder involvement is a welcome effort to make environmental regulation more democratically responsive. As a recent review by Terry F. Yosie and Timothy D. Herbst (1998) has shown, learning how to most effectively involve stakeholders is an ongoing process which deserves continuing attention.

Involving representatives of specific concerned or affected parties in environmental decision making is clearly important. However, the Agency also has a responsibility to represent the broad "public interest" in environmental decision making. Cynics may argue that there is no such thing as "the public", only interest groups. But the concept of the general public interest lies at the heart of many of our most cherished democratic institutions. For example, we don't appoint a committee of the family of the accused and the family of the victim to try criminal cases. We appoint an unbiased jury and give them the mandate to determine the facts on the principle that in the long run justice based on factual truth serves the best interests of the public at large.

In a similar way, the interests of the general public are best served when environmental decisions are based on a full and careful consideration of all available science. Sometimes, such a full and careful consideration also serves the immediate interests of specific stakeholders. But often it does not. Polluters may be influenced by compelling short-term economic interests. Environmental activist may be motivated by their specific political agendas. Affected citizens may be motivated by perceptions, concerns, and political agendas that are only partially informed by available science. In short, involving stakeholders in the decision making process does not guarantee that decisions will be based on a secure factual foundation and, therefore, does not assure that the broader public interest will be served.

Basing decisions on a careful consideration of all available science is a basic part of the EPA's mission. However, in the press of day-to-day operation even the Agency may be diverted from this mission. For obvious and legitimate political reasons, the Agency is interested in minimizing controversy. Especially in newer decision environments, which involve a greater focus on consultation and negotiation among directly involved stockholders, there is a risk that the broad public interest in assuring that decisions are based on a full consideration of all available science may receive too little attention.

One way to minimize this risk is to work on evolving better mechanisms to assure that available science gets adequately reviewed for, and considered in, such decision settings. Equally important is the need to identify gaps in knowledge uncovered in such decision settings, so that research agendas can be responsive to these needs.

We enthusiastically support the Agency's efforts to develop and promote new, more flexible, adaptive approaches to environmental regulation. They are responding to an important need. As these new approaches evolve and mature, we urge you to lead the Agency in a more systematic consideration of how science can most effectively be reviewed for, and considered and used in, these new decision processes. We note that the Agency has placed emphasis on strengthening its tools and methods for stakeholder involvement throughout all its programs. We want to help ensure that these efforts include mechanisms for the most appropriate use of science in these stakeholder efforts.

For our part, to assist in this effort, representatives from the Science Advisory Board (SAB) have been participating in a series of internal workshops being run by ORD. When these are complete, the SAB Executive Committee plans a series of its own workshops, to which selected Agency, SAB and outside parties will be invited to discuss how science is being reviewed and used, and how it might better be reviewed and used, in each of a number of new programs and offices. However, rather than focus the first of our workshops on any particular program, we plan to invite a number of senior Agency officials to give us feedback on this commentary. Are we inappropriately concerned? Are there mechanisms already in place that adequately mitigate the risks we have discussed? Are there important aspects of the issue that we have perhaps overlooked and need to consider?

We hope you will support and join us in advancing this important agenda.

Sincerely,

etc.

Reference: Terry F. Yosie and Timothy D. Herbst, "Using Stakeholder Processes in Environmental Decision Making: An evaluation of lessons learned, key issues, and future challenges," Ruder Finn, Washington, September 1998.